# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 4857 of 1987

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE K.A.PUJ**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**GOVINDBHAI VIRJI THAKKAR & 1 - Petitioner(s)**

**Versus**

**UNION OF INDIA & 5 - Respondent(s)**

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**Appearance :**

MR RC JANI for Petitioner(s) : 1,MR YN OZA for Petitioner(s) : 1 - 2.MR GIRISH PATEL for Petitioner(s) : 1 - 2.
NOTICE UNSERVED for Respondent(s) : 1,
NANAVATI ASSOCIATES for Respondent(s) : 2,
None for Respondent(s) : 3,
MR TR MISHRA for Respondent(s) : 4 - 6.
MR SH ASRANI for Respondent(s) : 4,

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**CORAM : HONOURABLE MR.JUSTICE K.A.PUJ**

**Date : 08/02/2006**

**ORAL JUDGMENT**

1.The petitioners have filed this petition under

Article 226 of the Constitution of India, praying for the direction to respondent Nos.1 to 3 to promote the petitioner No.1 on ad hoc basis. The petitioners have also prayed for the direction to the respondent Nos.1 to 3 to grant promotion to H-1 grade strictly in accordance with the seniority list.

2. It is the case of the petitioner that the petitioner was not promoted to the post of Senior Accountant H-1 grade despite the fact that the petitioner was senior and eligible for being promoted.

3. The petition was admitted and rule was issued on 29.10.1990. The Court has observed in one of its orders that only with a view to enable the petitioners to file representation, at the request of the learned advocate for the petitioners matter was adjourned. Pursuant to

the said order the petitioner has made the representation before the respondent Corporation. The Manager (P & A) Mr.G.L.Parikh addressed a letter to K.S.Nanavati & Associates, learned advocate appearing for the respondent stating that as desired by the advocate of the petitioner before the High Court and subsequent representation made by the IFFCO Employees' Union, Kandla, to settle the matter amicably, the IFFCO Management has reviewed the matter. Accordingly, the IFFCO Management has offered to consider the promotion of Shri G.V.Thakkar, Accountant, to the post of Sr.Accountant w.e.f. 1.11.1987, the date from which Mr.S.B.Lakhia was promoted. It was further stated that offer was made by the Management as a gesture of goodwill and with a view to maintain good industrial relation. However, the said offer was not accepted by the petitioner at the relevant

point of time and the petitioner was insisting on his promotion to be effective from 1.5.1985. The matter was, therefore, not settled and thereafter the present petition was admitted.

4. Several issues are raised in this petition. Affidavit in reply, affidavit in rejoinder, affidavit in sur rejoinder and several other affidavits are filed in this petition. During the course of argument Mr.R.C.Jani, learned advocate appearing for the petitioner has submitted that the offer which was made to the petitioner earlier pursuant to the direction of this Court as well as representation made by the petitioner, the petitioner is ready and willing to accept the promotion with effect from 1.11.1987. If the IFFCO Management gives promotion to the petitioner w.e.f. 1.11.1987, the petitioner does not want to press this petition.

5. Mr.Kayur Gandhi, learned advocate appearing for the respondent has, however, submitted that the earlier offer was made in the year 1990 and thereafter the Management of the IFFCO was changed and now it is the Society and the holding of the government is substantially reduced. However, the present Management of the IFFCO would certainly consider the case of the petitioner in light of the earlier offer made by them on 11.9.1990.

6. It is also important to note that the petitioner has moved Civil Application seeking declaration of this Court that the action of the opponent Management and imposing condition for considering the case of the applicant for promotion is arbitrary and illegal. Alongwith this application one letter is produced, wherein it is stated that since the

petitioner's case was pending before the High Court it was subjudiced and denied to take any action over it. The petitioner's case could be considered alongwith the other 5 persons for promotion claim, provided the petitioner withdrew the case from the High Court. Since the case was not withdrawn at that point of time, the petitioner's case was not considered for promotion. The facts still remain that the petitioner's case for promotion was not considered by the IFFCO Management during the pendency of the petition. Now the petitioner has agreed to accept the offer earlier made and hence request is made to dispose off the petition on the above line.

7. In the above view of the matter, the Court has not gone into the merits of the matter and disposes of this petition by observing that since the promotion to the post of

Sr.Accountant w.e.f. 1.11.1987 is agreeable to the petitioner, the present Management of the IFFCO will consider the same in light of the decision taken by them on 11.9.1990 as a gesture of goodwill and with a view to maintain good industrial relation. The Court hopes that the present Management of the IFFCO will consider the same within one month from the date of receipt of writ of this order or from the date of receipt of certified copy of this order, which ever is earlier, and take appropriate decision in light of the aforesaid observations during this period.

8. Subject to the aforesaid directions and observations this petition is accordingly disposed off. Rule is discharged without any order as to costs. Direct service is permitted.

(K. A. PUJ, J.)

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